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SUBJECT: MEETING OF THE WTO NEGOTIATING GROUP ON NON-
AGRICULTURAL MARKET ACCESS (NAMA) ON APRIL 25-29, 2005

Ref: Geneva 1115

11. SUMMARY. The WTO Negotiating Group on Market Access (NAMA) met in Geneva on April 25-29, 2005 to continue discussions on tariff formula options, treatment of unbound tariffs, sector tariff liberalization, issues of concern to developing countries, and non-tariff barriers. The meeting moved the NAMA process from clear preparatory work into the more structured negotiating phase of work, as efforts intensify in the lead up to the July initial deadline and the Hong Kong Ministerial in December, where the means to reducing and eliminating tariffs are to be finalized. END Summary.

FORMULA

12. A recent proposal from Argentina, Brazil, and India (ABI) was the initial focus of discussion, as four other proposals from the US, EC, Norway and Mexico/Chile/Colombia (all based on a simple Swiss formula model) were discussed in detail at the last meeting. The ABI proposal did not generate the groundswell of support that the ABI countries hoped for. While reactions to the proposal were generally negative, the proposal received support from some members, particularly those with a purely defensive stance. The treatment of unbound lines repelled many Members from Latin America and south east Asia due to the self-serving character of the ABI proposal's approach to unbound rates which is design to meet the needs of India). Educational efforts and analysis sharing by the US delegation also dampened the Africa Group's enthusiasm for the proposal due to the formula's inherent inequities among developing countries and the severe erosion of Africa's preferential access to developed country markets. In defending the proposal, the authors emphasized that, unlike proposals from the US and EC, it provided both special and differential treatment and less than full reciprocity; that average bound tariffs may not reflect levels of development but they do reflect economic reality; and that the inherent sensitivity of unbound lines suggests binding levels should be near the average target.

13. Support for the ABI proposal came from Caribbeans (Jamaica, Trinidad and Tobago, and Barbados), North Africans (Egypt, Tunisia), the Dominican Republic, and China. Members in a middle ground included Bolivia, El Salvador, and Thailand. Friends of Ambition, (most developed countries plus Chile, Costa Rica, Hong Kong and Singapore), Turkey, Chinese Taipei, and many Latin American countries such as Colombia, Ecuador, and Peru universally suggested the proposal did not meet the objectives of the July Framework of cutting tariff peaks in all the major traders, was based on previously discarded formula options, and had too many unclear components (e.g. treatment of unbound and link to other market access negotiations). Malaysia and Uruguay privately told us they did not support the proposal, and it was reported to us that Indonesia did not support the ABI proposal although they found it "interesting."

14. In informal consultations the chair pressed Members to get specific on what they are prepared to give and what they want to get out of the formula, i.e. tariff liberalization. The US, Canada and EC indicated they expected to virtually eliminate their tariffs in this round if real new access can be achieved in the markets of key developing countries in exchange. Brazil and India were non-committal but noted that their goal was to ensure that this round did not widen the gap on market access between agriculture, where they perceive relatively high barriers, and NAMA where there is better market access. When pressed on whether they were prepared to make cuts in applied rates given their much higher bound tariffs, Costa Rica said they were prepared to make real cuts in order to achieve reciprocal market access in other developing country markets. Jamaica admitted they did not have sufficient instructions to advance negotiations, in particular with respect to their actual goals.

In the closing plenary the chair noted that while there seems to be agreement on a Swiss-type formula, Members need political guidance on the level of ambition in the formula and in particular the number, level, and criteria for determining the coefficients. (Note: The term "Swiss-type" formula embraces both a pure Swiss formula (on which the US, EC, Norway and the Chile, Colombia, Mexico proposals are based) and the significant variation of the Swiss formula proposal by the ABI proposal.)

15. Members are grappling with what type of analysis might help Members better understand the effects of the formula proposals on

the table. In an informal session with the Chairman, the Secretariat indicated it intended to update previous data runs

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showing the effects of different Swiss formula coefficients against Member's average tariffs. The United States offered to provide some illustrative examples or country tariff profiles demonstrating the effects of various Swiss formulae and the "Girard formula" (using average tariffs as a coefficient) on a product line-by-line basis. The Secretariat welcomed this contribution and suggested it would be helpful for the June meeting.

UNBOUND LINES

16. On currently unbound lines with low applied rates (which approximately 27 countries subject to the formula maintain), discussions have centered around a proposal from Canada, Hong Kong, Norway, Costa Rica, Norway and Peru, a longstanding proposal from Malaysia and the unbound element of the ABI proposal. The United States has been endeavoring to understand better the particular problem several ASEAN countries (Philippines, Thailand and Malaysia) have on this issue in order to determine what solution might be appropriate that would not significantly undermine liberalization. Unfortunately, during NAMA week, the United States was unable to make much progress with Malaysia regarding its numerous unbound tariffs, since no technical experts from Kuala Lumpur attended the meeting. The United States will work to set up a subsequent technical meeting as well as share with Malaysia analysis of how this issue affects their export interests in other developing country markets. Switzerland told us that they had a productive meeting on this issue with Thailand. In the Chair's informal session Thailand and the Philippines said that in the end it is the level at which these tariffs are bound rather than the methodology to get to that level, but Malaysia still focused on binding as a concession and the inequity between their own Uruguay Round commitments at low rates and that of Latin American countries which bound all lines but at high levels. This will remain a contentious issue as the July Framework is clear that treatment of unbound tariff lines is for purposes of establishing the base rate for application of the formula. The chair flagged this as a key issue for political guidance.

OTHER TARIFF-RELATED ISSUES

17. Discussions on a Canada/Hong Kong proposal to eliminate low duties after the application of the tariff formula drew out several camps. Recently acceded members (Croatia, Moldova) don't want this provision to apply to them since most of their tariffs are already low even before application of the formula. Many developing countries (Cuba, Jamaica, and Brazil) claimed that low duties are important source of revenue, although the Philippines noted that this was mainly a concern with low applied rates (most of their bound rates do not fall in the category of low duties.) Hong Kong, Singapore, and Costa Rica pointed out that agreeing to eliminate low duties this would be a significant concession from developed countries which have extensive low duties already. Switzerland said that it was too much of a concession from developed countries to consider at this stage. The United States suggested that such a contribution would need to be looked at in the context of progress in reducing high tariffs and peaks in key developed and developing country markets. In his closing remarks the chair stated that he did not think this issue was ripe for negotiations at this point. It is likely it will be revived at a later stage of the negotiations. Canada does not plan to press the proposal at this time.

18. There was a short discussion of technical issues. On availability of data for the tariff negotiations, , the chair instructed the Secretariat to begin creating trade negotiating files with best available data from other sources for countries that have not submitted data to the WTO's Integrated Data Base. Discussions on some technical and policy questions related to product coverage for the NAMA negotiations will take place when there are more submissions from Members, and discussions on ad valorem equivalents for specific rates applied on industrial goods will occur when there is more progress on this issue in the agriculture negotiations.

NON-RECIPROCAL PREFERENCES

19. The Room D (each delegation is limited to three participants) discussion of preferences revealed that the Africa Group wants an explicit reduction of the formula's impact on their key preference products, and the Africa-Caribbean-Pacific (ACP) countries have yet to finalize a list of such products for NAMA scrutiny. To describe the "correction coefficient" suggested in their proposal, Kenya's specific example noted that the formula could reduce a developed country applied rate from 10% to 4%, but if such a tariff-line cut harmed a preference country, the final tariff could be bumped up to 6% to recapture some of the preference margin.

110. The Kenyan explanation reinvigorated the preference erosion debate, which again separated developing countries into preference beneficiaries (Mauritius, Kenya, Jamaica, Antigua &

Barbuda, Lesotho, Tunisia, Zambia, Zimbabwe, and Bangladesh on behalf of the LDCs) versus those favoring ambitious cuts in developed country markets (Colombia, Sri Lanka, Costa Rica, Ecuador, and Pakistan). In presenting the Argentina-Brazil-India (ABI) proposal, Brazil side-stepped the issue, stating that it was premature until the formula becomes clear. Mauritius, Kenya, and Zambia also objected to the preference erosion impacts of sectoral initiatives, in particular in sectoral initiatives that might target final tariff rates at zero. The USDel, Norway, and Chinese Taipei noted that preference beneficiaries could join sectoral discussions and participate in discussions to air their concerns and highlight sensitivities. Sri Lanka highlighted the potential of sectorals to address almost all key preference areas (textiles and apparel, footwear, and fish).

11. The USDel and others again emphasized the need for a concrete list of preference products to define the scope of the issue. The USDel had also raised concerns in March that the ACP Index of Vulnerability resulted in an artificially long list of key preference products and that key factors (such as product export share and preference margin) had been omitted from the Index. In Room D, Mauritius signaled its willingness to consider these factors as additional filters to fine-tune a product list. Privately, Mauritius promised to discuss the product list with the United States prior to distributing it to NAMA, and Kenya seemed willing to unblock a "notional" product list, if it could change depending on a final NAMA formula. The Chairman noted that an ACP listing of products of concern, using additional filters, would be useful and if such products were limited to a few sectors a more targeted approach might be warranted.

12. U.S. engagement on preference erosion also focused on educating preference beneficiary countries that the ABI Girard-like formula (1) caused greater preference erosion than dual coefficient proposals and (2) failed to offset preference erosion with new access to major developing country markets. USDel made some headway in discrediting the ABI proposal during a plurilateral with the LDC Group, bilaterals with Mauritius, Kenya, Rwanda, Barbados, Antigua and Barbuda, Guyana, and Sri Lanka, and to a lesser extent in bilaterals with Antigua & Barbuda and Barbados. The Caribbean group, in particular Jamaica, remains attracted to the ABI proposal because it effectively shields them from any cuts in applied tariffs.

SECTORALS

13. In the NAMA plenary the US presentation on critical mass served to answer some questions about how this mechanism worked and drove home the point that sectors will take time to negotiate and will not appear out of thin air. During the course of the week informal sectoral discussions were held on footwear, forest products, raw materials, drugs and devices, and chemicals. The informal meetings were generally well attended, with developing country Members asking questions rather than remaining silent. A US presentation on critical mass initiatives would be developed (which contains potential flexibilities for developing countries) clarified the concept for many developing countries.

14. Chemicals: Switzerland hosted a meeting on chemicals in which a number of developing countries (Malaysia, Singapore, and Thailand) participated. This meeting focused on discussion of possible product coverage to augment the existing Chemicals agreement and the means to assess the merits of different potential approaches to product coverage. The group will meet again during the next NAMA week to advance discussions further.

15. Drugs and Devices: Switzerland also hosted a meeting to advance quiet discussions on whether there could be a tariff component to the access to medicines issue and whether the NAMA negotiations could be a means to deliver additional liberalization that would help reduce the costs of drugs and medical devices in developing countries (developed countries have generally eliminated duties already under the Uruguay Round Pharmaceutical Zero for Zero Agreement). This effort would parallel efforts by existing Members of the Pharmaceutical agreement to expand product coverage of the UR agreement among them and grant these further tariff reductions on an MFN basis within the next few months.) The goal of the drugs and devices initiative would be to entice other developing countries to reduce their applied and bound tariffs as a contribution to the Round that would also reduce the costs of medicines internally. At the Swiss meeting, delegations discussed how this might be accomplished and reviewed several recent studies that had been done by academics and NGOs highlighting the issue of tariffs as a barrier to access to medicines.

16. Footwear: The US hosted an initial meeting to ascertain potential interest in a sectoral initiative on footwear. Participants included Canada, China, Chinese Taipei, Hong Kong, Mexico, New Zealand, Pakistan, Switzerland, and Thailand. While discussion highlighted a range of perspectives on the merits of a footwear initiative, there was not yet much enthusiasm demonstrated for the idea.

17. Forest Products: Canada hosted a meeting following up on discussions during the last session. Australia, Chile, Croatia,

Malaysia, Mexico, Norway, the Philippines, Thailand, and the United States attended. Participants discussed possible sector coverage, target end rates and possible accommodations for developing countries. Although most participants were not prepared to get specific, Canada and Norway indicated they would like to see the inclusion of pre-fabricated buildings and New Zealand indicated they would like to see pulp and paper along with wood furniture included. On end rates New Zealand indicated it could go to zero, however others either couldn't comment until they spoke with capitals (Malaysia and Chile) while others indicated particular lines were sensitive and going to zero would be difficult (Canada and Chinese Taipei).

18. Raw Materials: The United Arab Emirates hosted the meeting. Australia, Egypt, Hong Kong, Japan, Jordan, Kuwait, Norway, Oman, Qatar, Switzerland, Trinidad and Tobago, and the United States attended. Also in attendance was the acceding Saudi Arabia. Participants reviewed the list of potential products submitted by the UAE as possible candidates for tariff reduction or elimination. The U.S. indicated it would like to add energy equipment which was supported by Canada, while Australia distributed its own list of products to include. The UAE said it was attempting to focus on a simple definition for the sector, and reported that it still had not received a clear signal from the Gulf States on various positions.

NON-TARIFF BARRIERS (NTBs)

19. The plenary discussion of the Secretariat's compilation of all NTBs tabled by Members did not elicit any new information on how Members plan to pursue notified NTBs. Kenya continued to throw up procedural hurdles and appears to be setting the stage to justify pulling the plug on the NTB negotiations. For example, although unsuccessful in its initial attempt to have all NTBs addressed in NAMA (even those clearly under the purview of other negotiating groups), Kenya is now requesting transparency on progress Members are making in resolving all NTBs on the list, including those Members are pursuing in other fora (i.e., existing Committees or other negotiating groups), which could be such a cumbersome process as to make the negotiations unmanageable. While transparency is a fundamental principle of the WTO, the Chairman also noted that Members were traditionally free to negotiate bilateral problems without making all information available to other members. A second Kenyan suggestion to schedule joint sessions where NAMA can meet with other Committee to review progress on addressing NTBs was met with reservation by several Members since the standing Committees do not have a negotiating mandate and meet less frequently.

20. The informal meetings on wood products, autos, and electronics were more successful, with the United States, New Zealand, and Korea taking leadership roles. The EU participated constructively in both the autos and electronics NTB meetings and hosted its own meeting to promote a horizontal agreement on export duties. The presence of industry representatives in the wood products meeting was useful in answering technical questions and speaking authoritatively on issues faced by regulators. Whereas the wood products group (hosted by the U.S. and New Zealand) is focusing on a particular set of NTBs, the autos and electronics groups (hosted by the United States and Korea respectively) are continuing to exchange information on a broad scope of NTBs and seeking to determine the extent of shared concerns. At this point, although all participants have been invited to share detailed information on NTBs they wish to pursue, only the United States and Korea have done so. The United States has circulated five papers in autos and three in electronics, and Korea has circulated three papers in autos and four papers in electronics. All participants have been invited to continue the discussion of these papers "virtually" between now and the June NAMA meeting.

21. The Chair convened a "Room F" process (consultations with a limited number of delegations that have expressed concerns/interests in the subject, chosen by the Chairman) to consult with a few delegations on NTBs to discuss his concern that NAMA may be headed toward "meager" results on NTBs. Participating were Australia, Bangladesh, the EU, India, Japan, Kenya, Korea, New Zealand, Norway, Philippines, Trinidad & Tobago, and the United States. In a good brainstorming session, delegates seemed to share the view that results on NTBs are important, NTBs are complex, and it will not be possible to reach any results on NTBs by July so we should use July to clarify how work will proceed. The developed and advanced developing participants also agreed that NTB negotiations are a Member-driven process, and on the difficulty in resolving NTBs because they keep "popping up" in other forms. Kenya continued to express concern that many NTBs would not be addressed in NAMA. The Kenyan rep stated that he had "thought NAMA would come up with resolutions, but now you (the Chair) are saying that Members have to resolve." The Chair observed that "NAMA is not a divine being; the onus is on Members to come forward with proposals." As a way to respond to the Kenyan (and other African) concerns, the group discussed ways to guarantee transparency of efforts to address NTBs bilaterally or plurilaterally, for example through more detailed reporting and consideration of written reports of bilateral or plurilateral meetings to plenary, through sharing information on how NTBs have been resolved, and ultimately

through scheduling NTB commitments. Given the complexities of NTBs, there was an initial discussion of the possible need to have a framework post-DDA, possibly like the Information Technology Agreement Committee, to monitor and ensure implementation of NTB commitments as well as to provide for a continuing forum to address NTBs.

122. As next steps, Members are encouraged to circulate papers to the plenary with details of NTBs they wish to pursue through NAMA, and include ideas on possible solutions. The Secretariat will update the latest JOB62 document with any updated materials from Members, and will also create a separate distilled version of the document that lists only NTBs Members have indicated they plan to pursue in NAMA. Members are encouraged to submit any updates for either notification to the Secretariat by May 15.

123. NAMA NEXT STEPS: Chair Johannesson said the June meeting would follow essentially the same format as this meeting, with plenty of time for Room D and small group consultations with the Chair. The Chair noted that although Members have done a considerable amount of work, there is still a lot of work to do and only 35 working days until the end of July when the first draft of the Hong Kong Ministerial text is due. Deily